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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,679	08/08/2005	Roland Isherwood	66307-348	4119

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EXAMINER

LEWIS, JUSTIN V

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

06/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/541,679

**Applicant(s)**

ISHERWOOD, ROLAND

**Examiner**

JUSTIN V. LEWIS

**Art Unit**

3725

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Dana Ross/  
Supervisory Patent Examiner, Art Unit 3725

Continuation of 3. NOTE: The limitation of: the design of the magnetic feature being complementary to the pattern of the metallic design and said magnetic feature being positioned to not overlap with the metallic design raises a new issue that was not previously presented and therefore would require further search and/or consideration to determine the allowability over the prior art.

Continuation of 11. does NOT place the application in condition for allowance because:

In response to Applicant's argument that Kaule fails to teach a configuration whereby the design of the magnetic feature has a varying size and shape along the length of the element (see Applicant's Arguments/Remarks pg. 8, lines 11-14), Examiner respectfully asserts that fig. 3 explicitly shows a configuration in which (per the content of col. 3, line 68- col. 4, line 2) bars of magnetic ink are applied as bars at the top and bottom of the strip, along with bars printed on parallel to the lines of writing. Given that the lines of writing are broken by the variably spaced writings, it is evident that Kaule anticipates claim 1's limitation of "a design of said magnetic feature having a varying size and shape along the length of the element."

In response to Applicant's argument that Kaule fails to teach the design of the magnetic feature being complementary to the pattern of the metallic feature (see Applicant's Arguments/Remarks pg. 9, lines 9-22), Examiner respectfully asserts that Kaule teaches the bars of magnetic ink being printed on parallel to and in register with the negative writing (see col. 4, lines 1-4).

In response to Applicant's argument that Kaule fails to teach a magnetic feature which has a varying height and that the height and design variation is such that the amount of magnetic material present in any cross section of the security element is constant (see Applicant's Arguments/Remarks pg. 10, lines 9-14), Examiner respectfully asserts that Kaule teaches a magnetic feature which has a varying height (see fig. 3, showing and that the height and design variation is such that the amount of magnetic material present in any cross section of the security element is constant; note the above comments, providing that the magnetic feature may be on parallel to and in register with the negative writing; hence, the magnetic feature has a "varying height"), and furthermore, fig. 4 teaches a cross section in which the amount of magnetic material (magnetic feature 4) is constant. Examiner is unable to locate the text on "page 11, lines 1 to 27" which Applicant refers to, as there is no "page 11" within the Kaule reference, which precludes Examiner from making a complete response thereto. Furthermore, Examiner respectfully notes that reference number 13 is an "activatable ink," per the Kaule "Detailed Description" section, further frustrating Examiner's attempt to completely respond to the arguments..